

not Expired, the Claying of Year and day without Denunciation or Registration following thereon before the date of the Suspension. In which case of putting the said Letters to Execution, the Decret of Suspension should accompany them as the warrant for so doing, left the other party should extract his Suspension off the Signet, and thereby stay Execution upon pretence, that the Suspension is not Decreed. But the Charge in a Suspension, <sup>having</sup> after the Letters were found orderly proceeded, the sus- pender, for extracting a Decret of Suspension, Denounced the sus- pender upon the former Letters, the Denunciation was found Unwarrantable because till Extracting the sus pender is in tuto and may apply to the Lord 15 January; 16816. *dictors of Maryobibancus contra K. Rypland.* When Letters are found orderly proceeded only for a part of the Charge, or conditionally; new Letters of horning or Diligence may be granted upon the Decret of Suspension. And always new Letters must be granted for payment of Expenses of any Decreted. When Letters are found orderly proceeded for them- self, the Charge wants no new Decret to instruct perfor- mance of the Condition; for in such a case, upon perform- ance accepted, or upon Confignation of what is Decreted, if per- formance offered be refused, he may Charge by Virtue of Letters granted upon the Conditional Decret, bearing the In- structions of the performance or Confignation, *Stair lib. 2. tit. 52. § 16. Word. There are two Kinds.*

The Charge may also extract out of the bill the bond of Caution given at Expanding the Suspension, and Charge the Cautioner by Virtue of Letters of horning, or the Decret for payment of the same Decreted, without first Discussing the principal Debtor 17 June 1714. Forbids con- tra Strachan which he will be liable for, the Charge had been turned into a civil Act of Debt. 27 November 1709. The Cautioner being Discharged, his attester may be given, sued subsidiarily; and will be liable as fully in his Debt, as the Cautioner himself d. Act of Debt. 27 November 1709. The Cautioner in a second Suspension and his attester an- swerable for what is Decreted against the prin- cipal Debtor, tho the Cautioner in the first Suspension cannot be Discharged, to whose bond of Caution the Creditor should assign them upon payment 6 January; 1681. *Home contra Home* Reasons of Suspension Exclude the Charge, being found Verified, do Recover the Caution

Cautioner and Attester: But Verification of Reasons only had perforce of the Charge, such as Arrestment or the like, do not Recover them, 2 January 1683. *Coll contra Somervell* The Letters being suspended simpliciter upon a Reason of Compensation proved, the Cautioner was Excused; albeit thereafter before Extracting the said Decret of Suspension, the Compensation on being taken off by an Emergent ground of Accommodation or liquidated fine, upon issuing of the Decret, the Letters were found orderly proceeded against the suspender, 27 No- vember; 1685. *Mose contra Gunnifone*.

If an Insufficient Cautioner or attester, hath been Re- ceived, Subsidiary Action is Recovered against the under- hand of the Bill, who Received such a Cautioner, or against the principal Pleasor, or even against the Clerk Register, who is Answerable for his Deputees.

#### Sect. 4. Reduction of Decrets.

Having treated of Reductions in General, as Actions in the first Instance else where *Vide supra* B. 2 Chap. 2. Tit. 1. § 2. I take notice here only of Reductions of Decrets in the second Instance, called in England *Reversal of Judge's writs*. In treating whereof, I shall Consider 1<sup>o</sup> of who are Competent to Judge in these Reductions. 2<sup>o</sup> Upon what grounds Decrets may be Reduced. 3<sup>o</sup> Against what grounds and warrants of Decrets Certification will be granted.

The Judge of the high Court of Admiralty, and the Commissioners of Edinburgh do in certain cases Reduce Decrets of Inferior Admirals or Commissioners Respec- tively. But the Lord of Session may Reduce not only the Decrets of all Inferior Courts, but also their own De- crets. Whereas no Inferior Judge, except the high Ad- miral (Act 16 Parl. 3 Ch. 2) can Review his own Extracted Decrets.